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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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JAN 19 2016

**APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas**

SC Court of Appeals

James O. Spence, Master-In-Equity Judge

Appellant Case No. 2015-002048

Marjorie E. Temple.....Respondent,

v.

Charles E. Strickland, III, Latisha D. Strickland, and Justin R.
Dillon.....Appellant.

PETITION FOR REHEARING

Frederick I. Hall, III
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S.C. Bar No. 2591kk
Attorney for Appellant

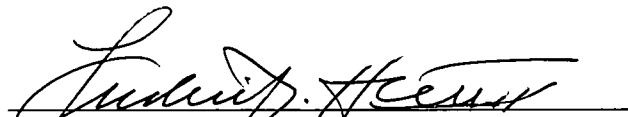
The Appellants, Charles Strickland, et al, hereby petition the Court of Appeals for Rehearing in the above referenced matter on the grounds that under the facts of this case, there is no material distinction between the Court's analysis in White v. South Carolina Dept. of Health and Environmental Control, 392 S.C. 247, 708 S.E.2d 812 (Ct. App. 2011) and this Court's decision in Wells Fargo Bank, N.A. v. Fallon Properties, 413 S.C. 642, 776 S.E.2d 575 (Ct. App. 2015) because the Court acknowledges that the ALC Rules 5 and 29 (c) contemplate service of an ALC decision by the ALC via the United States Postal Service or hand delivery and not by a party via electronic mail. Likewise, the South Carolina Rules of Civil Procedure contemplate service of a *written notice* either by U.S. Mail or by hand delivery, not by email. There is no prior decision of this Court or the South Carolina Supreme Court recognizing service by electronic mail prior to *Fallon Properties*. Therefore, the dismissal here essentially amounts to an ex-post facto denial of due process, as the Motion for Reconsideration or to Alter the Judgment of the Court in this case was filed within ten days after the Clerk of Court provided written notice on a form prescribed by the Supreme Court that the judgment had been entered on June 15, 2015. The written notice of entry was received on June 16, 2015, all of which was prior to this Court's decision in *Fallon Properties*. This Court, while it focused on

the “receipt of notice,” overlooked and misapprehended the requirement that *written notice* of entry must be *served* either by hand delivery or by mailing it to the attorney or the party as prescribed in SCRPC Rule 5 (a) (4) and (b) and the fact of the matter is that neither the lower court, nor the clerk complied with this rule and the failure to do under this Court’s analysis here in dismissing this appeal and under *White* is tantamount to an ex-post facto a denial of due process.

The Bar had absolutely no notice that service by email, by either the court or the clerk of court, was sufficient legal service or receipt of written notice of entry of a judgment. It is not sufficient to receive a notice under the South Carolina Rules of Civil Procedure, it must be properly served for the notice to be legally received, similar to sufficient service of a summons and complaint. If the service is not proper, it is not legally received. Otherwise, this Court is essentially eviscerating the requirements of Rule 5 (a), (4) and (b), and in the process leaving the Bar in a quandary as to how to comply with or understand the rules.

Respectfully Submitted,

January/9, 2016


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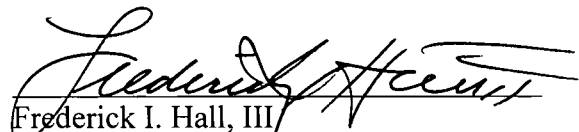
PROOF OF SERVICE

I certify that I have served Appellants' Petition For Rehearing by depositing a copy of it in the U.S. Mail, postage prepaid, on January 19, 2016, addressed to her attorneys of record, S. Andrew Syrett and Rolland E. Greenburg, III at the addresses listed below:

S. Andrew Syrett, Esquire
712 Richland Street, Suite E
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Rolland E. Greenburg, III, Esquire
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January 19, 2016



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Rick Hall

Jennifer M. Cooper

January 19, 2016
VIA HAND DELIVERY

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, SC Court of Appeals
1220 Senate Street
PO Box 11629
Columbia, South Carolina 29211

**RE: Charles E. Strickland, III, Latisha D. Strickland and Justin
Dillon, Appellants vs. Marjorie E. Temple, Respondent
Appellate Case No. 2015-002048**

Dear Ms. Kitchings:


Enclosed for filing please find the original and six (6) copies of Petition For Rehearing regarding the above referenced matter.

Please have one of your staff file the original and return the clocked in copy to our office in the enclosed self addressed, stamped envelope. I have also enclosed a check in the amount of \$25.00 to cover the filing fee.

By copy of this letter, I am also serving a copy of the same upon opposing counsel.

Should you have questions regarding this matter, please feel free to contact me at my Lexington office.

Yours truly,



Frederick I. Hall, III

FIH,III/gmt

Enclosures

cc: S. Andrew Syrett, Esquire
Rolland E. Greenburg, III, Esquire
Mr. Jimmy Dillon